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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS,

Defendant.

COMPLAINT

No. 21 Civ. 7377

The United States of America (the “United States” or the “Government”), by and through its attorney, Audrey Strauss, United States Attorney for the Southern District of New York, brings this action against defendant the American Society of Composers, Authors and Publishers (“ASCAP”) pursuant to 26 U.S.C. § 7401, and alleges as follows:

INTRODUCTION

1. The United States brings this action to collect a liability imposed upon ASCAP pursuant to 26 U.S.C. § 6332(d)(1) for its failure or refusal to surrender property or rights to property subject to Internal Revenue Service (“IRS”) levies served on January 28, 2010; May 9, 2013; March 14, 2014; June 17, 2014; and September 26, 2014 (the “Levies”), to collect the federal personal income tax liabilities of ASCAP member Carvin Haggins for tax years 2005-2009, 2011, and 2012.

JURISDICTION AND VENUE

2. This action is commenced in accordance with Section 7401 of the Internal Revenue Code, 26 U.S.C. § 7401, at the direction of the Attorney General of the United States and with the authorization of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury.

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because ASCAP operates in this district and because a substantial part of the events or omissions giving rise to the claims herein occurred in this district.

THE PARTIES

5. The United States brings this action on behalf of the IRS, an agency of the federal government and a bureau of the U.S. Department of the Treasury.

6. ASCAP is a professional organization of songwriters, composers, and music publishers founded and governed by its members. ASCAP licenses its members' songs and scores to businesses that play them publicly and then remits the royalties to its members. ASCAP has a principal place of business at 250 West 57th Street, New York, New York 10107.

FACTUAL BACKGROUND

7. On the dates and in the amounts set forth below, IRS made assessments for unpaid federal personal income taxes against Carvin Haggins for tax years 2005, 2006, 2007, 2008, 2009, 2011, and 2012 in the following amounts:

Tax Year	Amount Assessed	Assessment Date
2005	\$1,031,14	11/27/2006
2006	\$66,865.04	9/15/2008

2007	\$3,224.31	3/19/2012
2008	\$132,499.21	3/19/2012
2009	\$1,342.44	3/19/2012
2011	\$15,718.32	7/14/2014
2012	\$3,934.76	7/14/2014

8. Despite proper notice and demand for payment of the assessments, Haggins has failed or refused to pay the assessments, plus statutory additions.

9. Pursuant to 26 U.S.C. §§ 6321 and 6322, tax liens arose on the dates of the assessments in favor of the United States against all property and rights to property of Haggins.

10. Haggins is a composer and author and a member of ASCAP. Haggins receives regular distributions of earned royalties from ASCAP.

11. On January 28, 2010; May 9, 2013; March 14, 2014; June 17, 2014; and September 26, 2014, the IRS sent ASCAP Forms 688-A, Notice of Levy, notifying it of the taxes due and owing from Haggins with respect to tax years 2005, 2006, 2007, 2008, 2009, 2011, and 2012, and demanding the surrender of all property and rights to property belonging to Haggins.

12. At the time of the September 26, 2014, Notice of Levy, Haggins owed a total of \$224,869.41, consisting of the unpaid balances of assessment plus statutory additions, including pursuant to 26 U.S.C. §§ 6601, 6621, 6622 and 6651, for those tax years. The amounts owed by Haggins for the tax years at issue have continued to increase as a result of the accrual of statutory interest and penalties.

13. On May 8, 2014, September 26, 2014, and April 27, 2015, the IRS sent ASCAP Forms 668-C, Final Demand for Payment, stating that if it did not comply with the Notices of

Levy within five days, the IRS would consider it to have refused its demand and might begin proceedings against it under 26 U.S.C. § 6332.

14. Between January 28, 2010, and the present, Haggins has earned royalties that have accrued to his ASCAP account on a monthly or bimonthly basis.

15. ASCAP did not remit payments to the IRS in response to any of the Notices of Levy.

16. ASCAP was required to surrender royalties earned by Haggins, which were the subject of the IRS's Levies.

17. The Levies have not been released, and ASCAP has refused to surrender or pay over to the United States (through the IRS) royalties earned by Haggins.

CLAIM FOR RELIEF

Judgment Against ASCAP Pursuant to 26 U.S.C. § 6332(d)(1)

18. The allegations in paragraphs 1 through 17 are repeated as if set forth fully herein.

19. Pursuant to 26 U.S.C. 6332(d)(1), “[a]ny person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary [of the Treasury], shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum.”

20. As a result of ASCAP's failure to honor the IRS's Levies and surrender royalties earned by Haggins, ASCAP is liable to the United States, pursuant to 26 U.S.C. § 6332, in a sum equal to the lesser value of the property or rights to property it has failed to surrender or Haggins' outstanding tax liability for the years at issue.

RELIEF REQUESTED

WHEREFORE, plaintiff, the United States, respectfully requests that the Court:

- (a) enter judgment against ASCAP for the liability imposed upon it pursuant to 26 U.S.C. § 6332(d)(1), in an amount equal to the lesser of the value of the property or rights to property of Haggins that ASCAP failed to surrender as required by the Levies served upon it, plus interest as provided by law, or the unpaid tax liabilities of Haggins, including statutory accruals and interest, for which the Levies were issued; and
- (b) award the United States its costs and any other relief the Court deems appropriate.

Dated: New York, New York
September 2, 2021

Respectfully submitted,

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